

3.6 LANDS AND REALTY

As provided by FLPMA, the BLM has the responsibility of planning for and managing public lands. Public lands, as defined by FLPMA, are lands and/or any interest in lands (e.g., mineral estate, reservations, etc.) that are owned by the United States and administered by the Secretary of the Interior, through the BLM. The land surface and mineral ownerships within the VPA are varied and intermingled; consequently, so are the administrative jurisdictions for land use and minerals.

Land and realty program objectives are the following:

- Manage the public lands to support goals and objectives of other resource programs,
- Respond to public requests or applications for land use authorizations, and
- Acquire administrative and public access where necessary to enhance resource management objectives of the BLM.

3.6.1 Land Ownership Adjustment

As mandated by Sec. 106 (a)(1) of FLPMA (43 USC 1701), public lands are retained in federal ownership except for those public lands that have future potential for disposal (i.e., sale and exchange).

3.6.2 Disposal and Acquisition

As described under Sec. 203 (a) and Sec. 206 of FLPMA (43 USC 1713; 1716), public lands have potential for disposal when they are isolated and/or difficult to manage. Lands in the VPA identified for disposal must meet public objectives (as outlined in Sec. 203 (a) and Sec. 206 of FLPMA), such as community expansion and economic development. The preferred method of disposal is land exchange. Exchanges are initiated in direct response to public requests or by the BLM to improve management of the public lands.

Public sales are managed under the disposal criteria set forth in Sec. 203 of FLPMA. Federal law requires lands to be sold at not less than fair market value. Public lands classified, withdrawn, reserved, or otherwise designated as not available or subject to sale are not available for sale.

Public land cannot be effectively administered without legal and physical access. Methods used to acquire legal rights that meet resource management needs include negotiated purchase, donation, exchange, and condemnation. Acquisition alternatives include purchase of fee or less-than-fee interest above, on, and below the surface; perpetual exclusive easements; and permanent or temporary nonexclusive easements. Acquisition of access rights supports one or more of these resources: lands, minerals, forestry, range, wildlife, recreation, and watershed. Acquisitions of road or trail easements are probably the most frequently encountered access needs. Such easements include:

- road easements
- scenic or conservation easements
- sign locations
- stream clearance projects
- utility easements

- hunting and fishing easements
- range improvements

In the case of a split-estate acquisition, courts have historically ruled that use of the mineral estate has precedence over use of the surface estate, regardless of consistency with long-term land-use planning decisions.

3.6.3 Withdrawals

Withdrawals are formal actions that set aside, withhold, or reserve federal land by statute or administrative order for public purposes. A withdrawal may remove areas from the public lands to be managed under the authority of another federal agency or department, although the land does not leave federal ownership. Withdrawals accomplish one or more of the following:

- Transfer total or partial jurisdiction of federal land between federal agencies
- Close (segregate) federal land to operation of all or some of the public land laws and/or mineral laws
- Dedicate federal land to a specific purpose

Withdrawals are often used to preserve sensitive environmental values, protect major federal investments in facilities or other improvements, support national security, and provide for public health and safety. Withdrawals segregate a particular portion of public lands, suspend operation of the public land laws (withdrawn from settlement, sale, location, or entry), and prevent any disposal of public lands or resources involved in certain types of land use application. Withdrawals remain in effect until specifically revoked.

Withdrawals that no longer serve the purpose for which they were established or that lack sufficient justification of need would be revoked. Withdrawal review is mandated by FLPMA, which requires the BLM to eliminate all unnecessary withdrawals and classifications. Before recommending a withdrawal continuation, alternatives such as rights-of-way (ROWs) and interagency agreements must be explored. Appendix E describes the existing withdrawals within the VPA.

3.6.4 Rights-of-way (ROWs)

All public lands in the VPA are made available for ROW designation, permits, and leases, with the exception of defined exclusion and avoidance areas. Short segments of corridor, or windows, are designated when a full-length ROW corridor cannot be justified. Existing utility windows, ROW concentration areas, and communication sites are the preferred locations for future grants. Designated corridors are the preferred locations for placement of two or more linear or aerial ROWs that are similar, identical, or compatible. Corridors may be designated as Active or Contingency.

3.6.5 Utility/Transportation Systems

ROWs are granted on a case-by-case basis. The majority of ROWs granted in the last 20 years have been for oil and gas gathering systems or roads. The majority of these ROWs did not follow designated corridors. Instead, routes were recommended that were the least environmentally damaging and followed de facto utility and transportation systems. Historically, pipeline ROWs

granted within the VPA have been small surface pipelines, because they were determined to be the least environmentally damaging. Most of the larger diameter (10+ inches) pipelines (e.g., MAPCO, Northwest and Questar oil/gas transportation pipelines) were buried. The Western Regional Corridor Study Committee recommended that utility corridors cross the VPA.

Exclusion areas prohibit ROWs and corridor/window designation. No exclusion areas have been designated in the VPA. Avoidance areas are areas where special environmental and/or management considerations exist. ROWs are either not granted in these areas, or, if granted, are subject to stringent terms and conditions. The following avoidance areas were described in the Diamond Mountain and Book Cliffs RMPs:

- Red Mountain
- Six Mile Draw roadless area
- Red Fleet recreation area
- Pariette Wetlands
- Green River corridor
- Development of inventoried recreation sites
- Sage grouse strutting areas
- Scenic corridors
- Archaeological sites
- Fragile watersheds
- Threatened and endangered plant and wildlife habitat areas
- Crucial winter range
- ACECs (Diamond Mountain RMP)

3.6.6 Access

Access to public lands is provided throughout the VPA. Access should be closed or restricted, where necessary, to protect public health and safety and to protect significant resource values. Easements can be acquired to provide access to public lands for recreational, wildlife, range, cultural/historical, mineral, ACEC, special management areas, and other resource needs.

3.6.7 Permits and Leases

Sec. 302 of FLPMA states that public lands may be offered for permit or lease to state, local, or private citizens for use, occupation, or development. For example, the BLM may permit agricultural development, residential use (only under certain very limited conditions), commercial use, advertising, or National Guard use of public lands. Permits are usually short-term authorizations not to exceed 3 years. Leases are long-term authorizations that usually require a significant economic investment in the land. Permits and leases generally require the permittee or lessee to pay rent to the U.S. for the use of federal property.

3.6.8 Trespass

Trespass occurrences are known to exist but many have not been documented and pursued because of lack of personnel and higher priority work. Common trespass locations in the VPA

are along drainages, oil fields, and other areas bordering public lands. The BLM is responsible for realty trespass abatement, which consists of trespass prevention, trespass detection, and trespass resolution. The method of trespass resolution depends on whether a trespass was intentional or not, the extent and duration of use, and the existence and extent of resource impacts. In the past, trespass resolution has involved the BLM collecting administrative costs from the trespassing party and then either issuing temporary land use authorizations (such as ROW grants, leases, or permits to resolve unauthorized agricultural use or location of canals, fences, pipelines or other facilities) or requiring that the unauthorized use be discontinued or that the personal property be removed.

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